

SENATE BILL REPORT

SSB 5931

As Amended by House, February 29, 2024

Title: An act relating to addressing 6PPD in motorized vehicle tires through safer products for Washington.

Brief Description: Addressing 6PPD in motorized vehicle tires through safer products for Washington.

Sponsors: Senate Committee on Environment, Energy & Technology (originally sponsored by Senators Salomon, Kauffman, Billig, Frame, Lovelett, Pedersen, Shewmake and Wellman).

Brief History:

Committee Activity: Environment, Energy & Technology: 1/09/24, 1/26/24 [DPS, w/oRec].

Floor Activity: Passed Senate: 2/6/24, 40-9.
Passed House: 2/29/24, 85-11.

Brief Summary of First Substitute Bill

- Designates 6PPD as a priority chemical and certain motorized vehicle tires as a priority consumer product under Safer Products for Washington (SPWA).
- Requires the Department of Ecology (Ecology) to determine regulatory actions and adopt rules to implement those regulatory determinations consistent with the existing SPWA process.
- Directs Ecology to specifically consider the effect of the regulatory actions on driver and passenger safety.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 5931 be substituted therefor, and the substitute bill do pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; Lovick, Trudeau and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators MacEwen, Ranking Member; Boehnke and Short.

Staff: Matt Shepard-Koningsor (786-7627)

Background: 6PPD. 6PPD is used as an antioxidant, antiozonant, and polymer stabilizer for rubber products. Many vehicle tires contain 6PPD to prevent them from breaking down due to reactions with ozone and other compounds. When 6PPD reacts with ozone in the air, it forms 6PPD-quinone (6PPD-q). As tires wear down through contact with roads, 6PPD-q is released. Stormwater can transport 6PPD-q from roads into streams and other water bodies, which may expose aquatic organisms to the particles. Some scientific literature and studies link Coho salmon mortality to 6PPD-q in stormwater runoff following only limited exposure.

Safer Products for Washington. In 2019 the Legislature established an administrative process for the Department of Ecology (Ecology) to regulate priority chemicals in priority consumer products, referred to as Safer Products for Washington (SPWA). Under SPWA, certain chemicals were initially defined as priority chemicals, including Perfluoroalkyl and polyfluoroalkyl substances (PFAS chemicals), phthalates, phenolic compounds, PCBs, and certain flame retardants. Every five years, according to a specified schedule, Ecology, in consultation with the Department of Health, must report to the Legislature its decision to designate at least five priority chemicals meeting certain criteria.

Every five years, according to a specified schedule, Ecology must also:

- identify priority consumer products that include priority chemicals, taking into consideration specified criteria;
- determine regulatory actions for the priority chemicals contained in priority consumer products; and
- adopt rules implementing those regulatory actions.

Regulatory actions may include: (1) determining that no action is needed; (2) requiring manufacturers to provide notice of the use of a priority chemical or class of priority chemicals; or (3) restricting or prohibiting the manufacture, distribution, sale, or use of a priority chemical or class of priority chemicals in a consumer product. Chemical restrictions require that safer alternatives are feasible and available.

The designation of priority chemicals and priority consumer products, and the determination of regulatory actions, do not take effect until the adjournment of the regular session immediately following such designation or determination.

On May 31, 2023, Ecology adopted rules requiring manufacturers of consumer products to

restrict or report on PFAS, ortho-phthalates, phenolic compounds, and certain flame retardants in specified priority consumer products. These rules took effect July 1, 2023, concluding the first cycle of SPWA. The first deadline of the second cycle of SPWA is June 1, 2024, by which Ecology must identify at least five additional priority chemicals. In June 2023, Ecology submitted a draft identification of priority chemicals to the Legislature, which identified seven new priority chemicals, including 6PPD. If the draft priority chemicals are included in the final report, due June 1, 2024, and not amended by the Legislature during the 2025 Legislative Session, the chemicals will become priority chemicals upon adjournment.

Other States. On October 1, 2023, California adopted a regulation listing motor vehicle tires containing 6PPD as a priority product under its safer consumer products law. By March 29, 2024, manufacturers must submit a chemical or product removal notification, a chemical or product replacement notification, or a preliminary alternatives analysis report.

Summary of First Substitute Bill: 6PPD. 6PPD is added to the list of priority chemicals in SPWA.

Safer Products for Washington. For the purposes of SPWA, a motorized vehicle tire containing 6PPD that is equipped on or intended to be installed as a replacement tire on a motorized vehicle for on-highway use is a priority consumer product. For these priority products, Ecology must determine regulatory actions and adopt rules to implement those determinations consistent with the SPWA process.

In determining regulatory actions related to the new priority consumer product tires, Ecology must specifically consider the effect of regulatory actions on driver and passenger safety.

Motorized vehicle means a vehicle intended for on- or off-highway use, but does not include the tires equipped on the vehicle nor tires sold separately for replacement purposes.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The state is spending a lot of money on culverts and we do not want a situation where salmon get up stream and then die. We are working with Ecology to address their concerns with timelines, and to address tires attached to cars and those not attached. 6PPD is a recently discovered chemical

contributing to an old problem, where 6PPD is the primary contributor to adult Coho salmon mortality. A lot of work is being done in this area. We broadly support reducing 6PPD in products and reducing the amount of 6PPD getting into our streams through roadways. A mitigation only approach likely cannot alleviate this problem.

CON: We are in support of an expedited review of 6PPD in tires, but we think the timeline in the bill would not advance an alternative for 6PPD but would create an administrative requirement diverting resources from this goal. 6PPD is a vital chemical used in tires to prevent degradation. Many tire manufacturers have formed a consortium to develop a safer alternatives analysis under California's requirements. We are focused on meeting California's deadline in March and providing Ecology information. Even if an alternative is discovered and used, 6PPD will remain on the roads for many years because of existing tires. At this point, we would ask the committee to vote do not pass. An expedited process without alternatives could create safety concerns on the roads and increase cost to our fleets. Agencies should work to develop stormwater requirements instead.

OTHER: Identifying safer alternatives to 6PPD in tires is a high priority for Ecology, and we are dedicating significant time to this. Ecology has proposed 6PPD as a priority chemical in SPWA, which is the statute this bill amends. Ecology is concerned the abbreviated timelines could lead to some stakeholder confusion, unnecessary expense, and less than satisfactory results. There are also expenses not part of the Governor's budget. We will be working with the sponsor to address these issues.

Persons Testifying: PRO: Senator Jesse Salomon, Prime Sponsor; Alexei Calambokidis, Trout Unlimited.

CON: Tracey Norberg, U.S. Tire Manufacturers Association; Cory Shaw, Washington Aggregates & Concrete Association.

OTHER: Kimberly Goetz, Department of Ecology.

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Specifies that the designation of 6PPD as a priority chemical is only for purposes of a motorized vehicle as a priority consumer product and specifies that the definition of motorized vehicle applies only for purposes of 6PPD.
- Clarifies that the definition of motorized vehicle for purposes of 6PPD as a priority chemical does not apply to non-motorized vehicles.
- Designates 6PPD as a priority chemical under SPWA without limiting that statutory designation to motorized vehicle tires.
- Eliminates new references to Ecology's authority to identify chemicals as priority chemicals under SPWA.